

OCT 31 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

REGINALD PHILLIP ARTIAGA,

Defendant - Appellant.

No. 04-50525

D.C. No. CR-03-00822-WJR

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
William J. Rea, District Judge, Presiding

Argued and Submitted October 21, 2005
Pasadena, California

Before: TASHIMA and FISHER, Circuit Judges, and SHADUR, District Judge.^{**}

Reginald Phillip Artiaga appeals the district court's denial of his motion to suppress evidence seized in violation of the Fourth Amendment and his motion to dismiss for lack of subject matter jurisdiction. Because the parties are familiar with the facts, we do not recite them in detail. We affirm.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The Honorable Milton I. Shadur, Senior United States District Judge for the Northern District of Illinois, sitting by designation.

The district court did not err in denying Artiaga's motion to suppress because the court was not clearly erroneous in its findings that the officers were credible, that they had reasonable suspicion to stop Artiaga's car and that Artiaga's handgun was in plain view. The photographs Artiaga submitted to prove that the handgun could not have been seen as the officers described it were inconclusive. Accordingly, the warrantless search and seizure did not violate the Fourth Amendment.

The court had subject matter jurisdiction under 18 U.S.C. § 922(g)(1) because Artiaga's handgun, which was manufactured in Germany and imported into Virginia before reaching California, had the requisite nexus with interstate commerce. *See United States v. Gonzales*, 307 F.3d 906, 914 (9th Cir. 2002); *cf. Gonzales v. Raich*, 125 S. Ct. 2195, 2205 (2005) (Congress' power to regulate purely local activities that are part of an economic class of activities that have a substantial effect on interstate commerce is firmly established).

AFFIRMED.